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FEB 17 2004

OFFICE OF PETITIONS

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

PAOLO PEVARELLO, et al.

Filed: April 30, 2001

Art Unit: 1626

Serial No.: 09/830,668

Examiner: Robert Gerstl

For: 2-UREIDO-THIAZOLE
DERIVATIVES, PROCESS FOR
THEIR PREPARATION, AND
THEIR USE AS ANTITUMOR
AGENTS

Docket No.: H053912.0096US0

Customer No.: 01200

PETITION UNDER 37 C.F.R. 1.313 (c) TO WITHDRAW FROM ISSUE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The issue fee for the issuance of allowed application claims 9, 11 and 12 was paid December 3, 2003. A search report on a counter part Hungarian application was preformed on November 24, 2003 that cited three reference as of interest which was brought to the undersigned attention in late January 2004. Applicant wishes to have the references identified by this Hungarian search report considered by the PTO.

By reason of a study of the Hungarian search report it has come to applicant's attention that claim 9 as it now reads is unpatentable over WO 97/40028 (an English equivalent to a Hungarian patent cited in the Hungarian search report), a reference discussed

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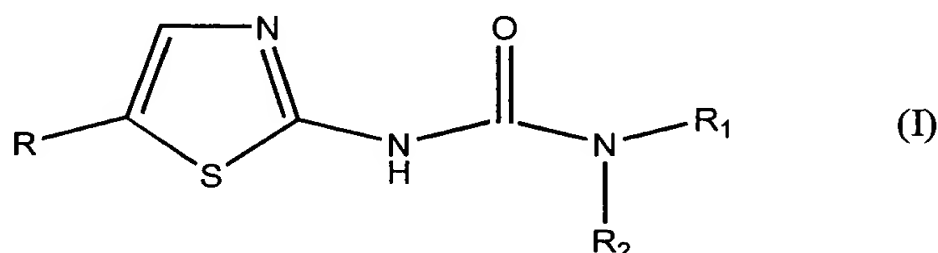
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in the background section of the application and disclosed to the PTO. Claim 9 is unpatentable by reason of an inadvertent omission from claim 9 when it was amended to independent form of a proviso that was in the independent claim from which claim 9 was originally dependent.

Applicant request withdrawal from issue of this application and return to exparte prosecution so that the references cited in the Hungarian search report may be considered and that claim 9 may be amended as follows:

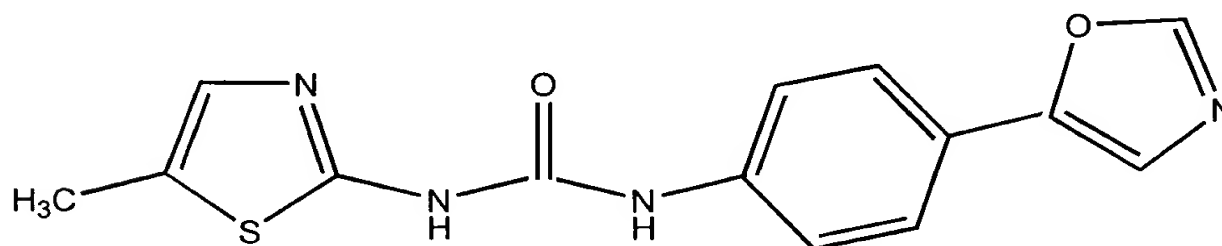
9. A 2-amino-1,3-thiazole derivative of formula (I)



wherein

R is bromine, chlorine, a straight or branched C₁-C₄ alkyl group, a phenyl group, a cycloalkyl group; R₂ is hydrogen and R₁ is an optionally substituted aryl or an arylalkyl or heterocyclyl-alkyl group having from 1 to 4 carbon atoms within the alkyl chain, wherein R₁ is not 4-(5-oxazolyl) phenyl.

WO 97/40028 discloses a compound 31 in Table IB at pages 22-23 which is as follows:



Without the proviso to be added to claim 9 such claim would be readable on compound 31 of WO 97/40028 by reason of claim 9's recital that R₁ is an optionally substituted aryl. With the amendment proposed for claim 9 compound 31 of WO 97/40028 would be excluded from coverage, hence the so amended claim would be patentable.

An Amendment accompanies this Petition which would so amend claim 9. A fee of \$130.00 accompanies this Petition as required by 37 C.F.R. 1.17 (h).

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Charles M. Cox".

Dwayne L. Mason, Reg. No. 38,959
Charles M. Cox, Reg. No. 29,057

Date: Feb. 13, 2004

AKIN GUMP STRAUS, HAUER & FELD LLP
1900 Pennzoil Place - South Tower
711 Louisiana Street
Houston, Texas 77002
Telephone: (713) 220-5800
Facsimile: (713) 236-0822